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**DECISION**



20442  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-203128

**DATE:** January 4, 1982

**MATTER OF:** Civilian Aircraft Pilots - Exempt Status  
Determinations Under Fair Labor Standards  
Act

**DIGEST:**

National Federation of Federal Employees requests a determination from this Office on the exempt/nonexempt status under the Fair Labor Standards Act of civilian aircraft pilots. Under 29 U.S.C. § 204 (1976), the Office of Personnel Management is authorized to administer FLSA with respect to Federal employees. In B-51325, October 7, 1976, we stated that the role granted to OPM in administering FLSA necessarily carries with it the authority to make final determinations as to whether employees are covered by its various provisions. Accordingly, since OPM has in fact reviewed the claims of the employees and has determined them to be exempt from FLSA as administrative employees this Office will not consider the claims.

Mr. James M. Peirce, President, National Federation of Federal Employees, requests a determination from this Office on the exemption status under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 et seq. (1976), of 11 civilian aircraft pilots. The pilots, who are employed by the United States Army Electronics Research and Development Command (Army), Fort Monmouth, New Jersey, claim overtime pay for the period April 24, 1975, to the present.

Two of the pilots, Mr. Walter Sabey and Mr. Bissell M. McElyea, had filed FLSA complaints contesting their exempt status determination for the years 1974 to 1979 with the Office of Personnel Management's (OPM) Eastern Region Office. Mr. Sabey was informed that after a review of all the information and comments concerning his duties, OPM determined that his exempt status was correct. He was denied a reconsideration of that status by OPM Headquarters. Mr. McElyea received a final decision from OPM also informing him that his exempt status determination was correct. Both the Army and OPM had determined the pilots to be exempt from FLSA under the administrative employee exception. See Federal Personnel Manual (FPM) Letter 551-7, July 1, 1975.

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The union questions OPM's determination that the pilots are exempt from FLSA because other pilots employed in the same General Schedule series at different agencies are considered nonexempt. The union requests a determination from this Office that these employees are nonexempt from FLSA for the entire period of their employment and accordingly requests overtime pay under FLSA for the period we determine the employees to be nonexempt.

Under 29 U.S.C. § 204 (1976), OPM is authorized to administer FLSA with respect to Federal employees. We have stated in the past that we consider the role granted OPM in administering FLSA necessarily carries with it the authority to make final determinations as to whether employees are covered by its various provisions. We have held that this Office will not review OPM's determinations as to an employee's exempt or nonexempt status. 59 Comp. Gen. 128 (1979); Earl Machett, B-193623, July 23, 1979; B-51325, October 7, 1976.

Accordingly, since OPM has in fact reviewed the claims of the aircraft pilots regarding their status under FLSA and has determined them to be exempt as administrative employees, this Office will not consider the claims.

*Harry R. Van Allen*  
For the Comptroller General  
of the United States